

Appl. No.: 09/975,128

Amendment Dated: 11/11/05

Reply to OA of 7/12/05

REMARKS

This amendment is responsive to the Action dated July 12th, 2005. With this response, claims 1-30, as selectively amended, remain pending. In addition, Applicant has introduced new claims 31-33. Support for the amendments and the new claims can be found in the original specification, claims and/or drawings. In this regard, no new matter has been introduced. Accordingly, upon entry of the amendment, claims 1-33 are pending.

Objections to Claims 26 and 28

In the Action, claims 26 and 28 were objected to as comprising lingering informalities. In response, Applicant has amended claim 26, as suggested by the Examiner, correcting the dependence of the claim to depend from claim 19, rather than claim 10. Applicant regrets this oversight, and thanks the Examiner for pointing this out. In view of the amendment, Applicant respectfully requests that the objection to amended claim 26 be withdrawn.

With respect to claim 28, Applicant respectfully notes that antennae is an appropriate plural of antenna and is, in this regard, synonymous with antennas. Accordingly, Applicant respectfully submits that claim 28 is accurate as written, and consistent with the scope of the claim suggested by the Examiner. Accordingly, Applicant respectfully requests that the objection to claim 28 be withdrawn.

§102(e) Rejection of Claims 1-4, 6-10, 19-22, 24 and 25

In the Action, claims 1-4, 6-10, 19-22, 24 and 25 were rejected as being anticipated by a patent issued to McDonnell (USP 6,763,491). In response, Applicant respectfully traverses the rejection of such claims.

Appl. No.: 09/975,128

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Reply to OA of 7/12/05

At the onset, Applicant believes that it will be able to pre-date the priority date of the McDonnell reference and is actively investigating this fact. In this regard, Applicant expressly reserves the right to swear behind at least the McDonnell reference.

Applicant respectfully submits that the Action has failed to establish a *prima-facie* basis for the rejection of such claims. In particular, Applicant respectfully submits that despite the characterization in the Action, the McDonnel language relied upon in the Action fails to anticipate or suggest receiving standard data units and converting them to sub-protocol data units. In this regard, Applicant respectfully submits that the McDonnel reference fails to teach every element of, e.g., claims 1, 19 and 31.

It is respectfully noted that anticipation under 35 USC § 102 requires the disclosure in a single prior art reference of each element of the claim under consideration. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).

However, it is not enough, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). “The *identical invention* must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131 (emphasis added).

In this case, insofar as the McDonnel reference fails to teach every element of the claims as presented in the claim, i.e., the identical invention, Applicant respectfully submits that the

Appl. No.: 09/975,128

Amendment Dated: 11/11/05

Reply to OA of 7/12/05

Action has failed to establish a *prima facie* case of anticipation. Accordingly, Applicant respectfully requests that the §102(e) rejection of claims 1 and 19 be withdrawn.

Applicant notes that claims 2-4, 6-10, 20-22, 24 and 25 depend from claims 1 or 19, respectively. Accordingly, Applicant respectfully submits that the Action has failed to establish an *prima facie* basis for the rejection of such claims, and respectfully requests that the rejection thereof be withdrawn.

§103(a) Rejection of cl. 5 and 23

In the Action, claims 5 and 23 were rejected as being unpatentable over the McDonnell reference in view of a patent issued to Gilbert (USP 5,559,810), pursuant to 35 USC §103(a). In response, Applicant respectfully traverses the rejection of such claims.

In particular, Applicant notes that the Gilbert reference is not introduced as curing the limitations of the McDonnell reference identified above. Accordingly, Applicant respectfully submits that the Action has failed to establish a *prima facie* basis for the §103 rejection of such claims. Unless and until the Action is able to establish a *prima facie* basis for the rejection of such claims, Applicant respectfully requests that the rejection thereof be withdrawn.

§103(a) Rejection of cl. 14-17, 29 and 30

In the Action, claims 14-17, 29 and 30 were rejected as being unpatentable over the McDonnell reference in view of a patent issued to Malmgren (USP 6,778,501), pursuant to 35 USC §103(a). In response, Applicant respectfully traverses the rejection of such claims.

In particular, Applicant notes that the Malmgren reference is not introduced as curing, nor does it cure the limitations of the McDonnell reference identified above. Accordingly,

Appl. No.: 09/975,128

Amendment Dated: 11/11/05

Reply to OA of 7/12/05

Applicant respectfully submits that the Action has failed to establish a prima facie basis for the §103 rejection of such claims. Unless and until the Action is able to establish a prima facie basis for the rejection of such claims, Applicant respectfully requests that the rejection thereof be withdrawn.

§103(a) Rejection of cl. 11-13 and 26-28

In the Action, claims 11-13 and 26-28 were rejected as being unpatentable over the McDonnell reference in view of a patent issued to Koo (USPA 2002/0071407), pursuant to 35 USC §103(a). In response, Applicant respectfully traverses the rejection of such claims.

In particular, Applicant notes that the Koo reference is not introduced as curing the limitations of the McDonnell reference identified above. Accordingly, Applicant respectfully submits that the Action has failed to establish a prima facie basis for the §103 rejection of such claims. Unless and until the Action is able to establish a prima facie basis for the rejection of such claims, Applicant respectfully requests that the rejection thereof be withdrawn.

§103(a) Rejection of cl. 18

In the Action, claim 18 was rejected as being unpatentable over the McDonnell reference in view of a patent issued to Johansson (USP 6,473,339), pursuant to 35 USC §103(a). In response, Applicant respectfully traverses the rejection of such claims.

In particular, Applicant notes that the Johansson reference is not introduced as curing the limitations of the McDonnell reference identified above. Accordingly, Applicant respectfully submits that the Action has failed to establish a prima facie basis for the §103 rejection of claim

Appl. No.: 09/975,128

Amendment Dated: 11/11/05

Reply to OA of 7/12/05

18. Unless and until the Action is able to establish a prima facie basis for the rejection of such claim, Applicant respectfully requests that the rejection thereof be withdrawn.

CONCLUSION

Applicant respectfully submits that the Office has failed to establish a prima facie basis for the rejection of claims 1-33, as selectively amended. Accordingly, Applicant respectfully submits that claims 1-33 are in condition for allowance and such action is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 50-0221.

Respectfully submitted,
SANDESH GOEL, ET AL.

Date: November 10, 2005

by: /s/ Michael A. Proksch / Reg. No. 43,021 /
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-14-

Art Unit 2661